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CHAPTER 11--NATIONAL TRANSPORTATION SAFETY BOARD

SUBCHAPTER I--GENERAL

§ 1101. Definitions

SUBCHAPTER II--ORGANIZATION AND ADMINISTRATIVE

- § 1111. General organization.
- § 1112. Special boards of inquiry on air transportation safety
- § 1113. Administrative.
- § 1114. Disclosure, availability, and use of information.
- § 1115. Training.
- § 1116. Reports and studies.
- § 1117. Annual report.
- § 1118. Authorization of appropriations.
- § 1119. Accident and safety data classification and publication.

SUBCHAPTER III--AUTHORITY

- § 1131. General authority.
- § 1132. Civil aircraft accident investigations.
- § 1133. Review of other agency action.
- § 1134. Inspections and autopsies.
- § 1135. Secretary of Transportation's responses to safety recommendations.
- § 1136. Assistance to families of passengers involved in aircraft accidents.

SUBCHAPTER IV--ENFORCEMENT AND PENALTIES

- § 1151. Aviation enforcement.
- § 1152. Joinder and intervention in aviation proceedings.
- § 1153. Judicial review.
- § 1154. Discovery and use of cockpit voice and other material.
- § 1155. Aviation penalties.

SUBCHAPTER I--GENERAL

§ 1101. Definitions

Section 40102(a) of this title applies to this chapter.

SUBCHAPTER II--ORGANIZATION AND ADMINISTRATIVE

§ 1111. General organization

(a) ORGANIZATION.--The National Transportation Safety Board is an independent establishment of the United States Government

(b) APPOINTMENT OF MEMBERS.--The Board is composed of 5 members appointed by the President, by and with the advice and consent of the Senate. Not more than 3 members may be appointed from the same political party. At least 3 members shall be appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

(c) **TERMS OF OFFICE AND REMOVAL**—The term of office of each member is 5 years. An individual appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed, is appointed for the remainder of that term. When the term of office of a member ends, the member may continue to serve until a successor is appointed and qualified. The President may remove a member for inefficiency, neglect of duty, or malfeasance in office.

(d) **CHAIRMAN AND VICE CHAIRMAN**—The President shall designate, by and with the advice and consent of the Senate, a Chairman of the Board. The President also shall designate a Vice Chairman of the Board. The terms of office of both the Chairman and Vice Chairman are 2 years. When the Chairman is absent or unable to serve or when the position of Chairman is vacant, the Vice Chairman acts as Chairman.

(e) **DUTIES AND POWERS OF CHAIRMAN**—The Chairman is the chief executive and administrative officer of the Board. Subject to the general policies and decisions of the Board, the Chairman shall—

- (1) appoint, supervise, and fix the pay of officers and employees necessary to carry out this chapter,
- (2) distribute business among the officers, employees, and administrative units of the Board; and
- (3) supervise the expenditures of the Board.

(f) **QUORUM**—Three members of the Board are a quorum in carrying out duties and powers of the Board.

(g) **OFFICES, BUREAUS, AND DIVISIONS**—The Board shall establish offices necessary to carry out this chapter, including an office to investigate and report on the safe transportation of hazardous material. The Board shall establish distinct and appropriately staffed bureaus, divisions, or offices to investigate and report on accidents involving each of the following modes of transportation:

- (1) aviation.
- (2) highway and motor vehicle.
- (3) rail and tracked vehicle.
- (4) pipeline.

(h) **SEAL**—The Board shall have a seal that shall be judicially recognized.

§ 1112. Special boards of inquiry on air transportation safety

(a) **ESTABLISHMENT**—If an accident involves a substantial question about public safety in air transportation, the National Transportation Safety Board may establish a special board of inquiry composed of—

- (1) one member of the Board acting as chairman; and
- (2) 2 members representing the public, appointed by the President on notification of the establishment of the special board of inquiry.

(b) **QUALIFICATIONS AND CONFLICTS OF INTEREST**—The public members of a special board of inquiry must be qualified by training and experience to participate in the inquiry and may not have a pecuniary interest in an aviation enterprise involved in the accident to be investigated.

(c) **AUTHORITY**—A special board of inquiry has the same authority that the Board has under this chapter.

§ 1113. Administrative

(a) **GENERAL AUTHORITY**—(1) The National Transportation Safety Board, and when authorized by it, a member of the Board, an administrative law judge employed by or assigned to the Board, or an officer or employee designated by the Chairman of the Board, may conduct hearings to carry out this chapter, administer oaths, and require, by subpoena or otherwise, necessary witnesses and evidence.

(2) A witness or evidence in a hearing under paragraph (1) of this subsection may be summoned or required to be produced from any place in the United States to the designated place of the hearing. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(3) A subpoena shall be issued under the signature of the Chairman or the Chairman's delegate but may be served by any person designated by the Chairman.

(4) If a person disobeys a subpoena, order, or inspection notice of the Board, the Board may bring a civil action in a district court of the United States to enforce the subpoena, order, or notice. An action under this paragraph may be brought in the judicial district in which the

(C) a railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train,

(D) a pipeline accident in which there is a fatality, substantial property damage, or significant injury to the environment,

(E) a major marine casualty (except a casualty involving only public vessels) occurring on the navigable waters or territorial sea of the United States, or involving a vessel of the United States, under regulations prescribed jointly by the Board and the head of the department in which the Coast Guard is operating; and

(F) any other accident related to the transportation of individuals or property when the Board decides—

(i) the accident is catastrophic;

(ii) the accident involves problems of a recurring character; or

(iii) the investigation of the accident would carry out this chapter.

(2) An investigation by the Board under paragraph (1)(A)-(D) or (F) of this subsection has priority over any investigation by another department, agency, or instrumentality of the United States Government. The Board shall provide for appropriate participation by other departments, agencies, or instrumentalities in the investigation. However, those departments, agencies, or instrumentalities may not participate in the decision of the Board about the probable cause of the accident.

(3) This section and sections 1113, 1116(b), 1133, and 1134(a) and (c)-(e) of this title do not affect the authority of another department, agency, or instrumentality of the Government to investigate an accident under applicable law or to obtain information directly from the parties involved in, and witnesses to, the accident. The Board and other departments, agencies, and instrumentalities shall ensure that appropriate information developed about the accident is exchanged in a timely manner.

(b) ACCIDENTS INVOLVING PUBLIC VESSELS.—(1) The Board or the head of the department in which the Coast Guard is operating shall investigate and establish the facts, circumstances, and cause or probable cause of a marine accident involving a public vessel and any other vessel. The results of the investigation shall be made available to the public.

(2) Paragraph (1) of this subsection and subsection (a)(1)(E) of this section do not affect the responsibility, under another law of the United States, of the head of the department in which the Coast Guard is operating.

(c) ACCIDENTS NOT INVOLVING GOVERNMENT MISFEASANCE OR NONFEASANCE.—(1) When asked by the Board, the Secretary of Transportation may—

(A) investigate an accident described under subsection (a) or (b) of this section in which misfeasance or nonfeasance by the Government has not been alleged; and

(B) report the facts and circumstances of the accident to the Board.

(2) The Board shall use the report in establishing cause or probable cause of an accident described under subsection (a) or (b) of this section.

(d) ACCIDENTS INVOLVING PUBLIC AIRCRAFT.—The Board, in furtherance of its investigative duties with respect to public aircraft accidents under subsection (a)(1)(A) of this section, shall have the same duties and powers as are specified for civil aircraft accidents under sections 1132(a), 1132(b), and 1134(b)(2) of this title.

(e) ACCIDENT REPORTS.—The Board shall report on the facts and circumstances of each accident investigated by it under subsection (a) or (b) of this section. The Board shall make each report available to the public at reasonable cost.

§ 1132. Civil aircraft accident investigations

(a) GENERAL AUTHORITY.—(1) The National Transportation Safety Board shall investigate—

(A) each accident involving civil aircraft; and

(B) with the participation of appropriate military authorities, each accident involving both military and civil aircraft.

(2) A person employed under section 1113(b)(1) of this title that is conducting an investigation or hearing about an aircraft accident has the same authority to conduct the investigation or hearing as the Board.

(b) NOTIFICATION AND REPORTING.—The Board shall prescribe regulations governing the notification and reporting of accidents involving civil aircraft.

(c) **PARTICIPATION OF SECRETARY**—The Board shall provide for the participation of the Secretary of Transportation in the investigation of an aircraft accident under this chapter when participation is necessary to carry out the duties and powers of the Secretary. However, the Secretary may not participate in establishing probable cause.

(d) **ACCIDENTS INVOLVING ONLY MILITARY AIRCRAFT**—If an accident involves only military aircraft and a duty of the Secretary is or may be involved, the military authorities shall provide for the participation of the Secretary. In any other accident involving only military aircraft, the military authorities shall give the Board or Secretary information the military authorities decide would contribute to the promotion of air safety.

§ 1133. Review of other agency action

The National Transportation Safety Board shall review on appeal—

(1) the denial, amendment, modification, suspension, or revocation of a certificate issued by the Secretary of Transportation under section 44703, 44709, or 44710 of this title;

(2) the revocation of a certificate of registration under section 44106 of this title;

(3) a decision of the head of the department in which the Coast Guard is operating on an appeal from the decision of an administrative law judge denying, revoking, or suspending a license, certificate, document, or register in a proceeding under section 6101, 6301, or 7503, chapter 77, or section 9303 of title 46; and

(4) under section 46301(d)(5) of this title, an order imposing a penalty under section 46301

§ 1134. Inspections and autopsies

(a) **ENTRY AND INSPECTION.**—An officer or employee of the National Transportation Safety Board—

(1) on display of appropriate credentials and written notice of inspection authority, may enter property where a transportation accident has occurred or wreckage from the accident is located and do anything necessary to conduct an investigation; and

(2) during reasonable hours, may inspect any record, process, control, or facility related to an accident investigation under this chapter.

(b) **INSPECTION, TESTING, PRESERVATION, AND MOVING OF AIRCRAFT AND PARTS.**—(1) In investigating an aircraft accident under this chapter, the Board may inspect and test, to the extent necessary, any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce.

(2) Any civil aircraft, aircraft engine, propeller, appliance, or property on an aircraft involved in an accident in air commerce shall be preserved, and may be moved, only as provided by regulations of the Board.

(c) **AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.**—In carrying out subsection (a)(1) of this section, an officer or employee may examine or test any vehicle, vessel, rolling stock, track, or pipeline component. The examination or test shall be conducted in a way that—

(1) does not interfere unnecessarily with transportation services provided by the owner or operator of the vehicle, vessel, rolling stock, track, or pipeline component; and

(2) to the maximum extent feasible, preserves evidence related to the accident, consistent with the needs of the investigation and with the cooperation of that owner or operator.

(d) **EXCLUSIVE AUTHORITY OF BOARD**—Only the Board has the authority to decide on the way in which testing under this section will be conducted, including decisions on the person that will conduct the test, the type of test that will be conducted, and any individual who will witness the test. Those decisions are committed to the discretion of the Board. The Board shall make any of those decisions based on the needs of the investigation being conducted and, when applicable, subsections (a), (c), and (e) of this section.

(e) **PROMPTNESS OF TESTS AND AVAILABILITY OF RESULTS.**—An inspection, examination, or test under subsection (a) or (c) of this section shall be started and completed promptly, and the results shall be made available.

(f) **AUTOPSIES.**—(1) The Board may order an autopsy to be performed and have other tests made when necessary to investigate an accident under this chapter. However, local law protecting religious beliefs related to autopsies shall be observed to the extent consistent with the needs of the accident investigation.

(2) With or without reimbursement, the Board may obtain a copy of an autopsy report performed by a State or local official on an individual who died because of a transportation accident investigated by the Board under this chapter.